



Virginia
Regulatory
Town Hall

Notice of Intended Regulatory Action
Agency Background Document

Agency Name:	Board of Psychology, Dept. of Health Professions
VAC Chapter Number:	18 VAC 125-20-10 et seq.
Regulation Title:	Regulations Governing the Practice of Psychology
Action Title:	Continuing Education Requirements
Date:	

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

In compliance with legislation enacted by the 2000 General Assembly, the Board intends to develop continuing education for licensure renewal. **The Act includes a mandate for the Board to implement continuing education requirements within 280 days of the effective date of the Act. This does not authorize the Board to promulgate an emergency regulation; however it does require that the regulation be in effect by April 7, 2001.**

The Board also intends to promulgate a provision for inactive licensure for individuals who are not practicing due to illness, retirement or relocation to another jurisdiction. Otherwise, these individuals would be forced to let their license lapse if they are unable to meet the continuing education requirements for renewal.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory

action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

Chapter 83 of the 2000 Acts of the Assembly adds section 54.1-3606.1 which mandates that the Board establish continuing education requirements for licensure renewal.

§ 54.1-3606.1. Continuing education.

A. The Board shall promulgate regulations governing continuing education requirements for psychologists licensed by the Board. Such regulations shall require the completion of the equivalent of fourteen hours annually in Board-approved continuing education courses for any license renewal or reinstatement after the effective date.

B. The Board shall approve criteria for continuing education courses that are directly related to the respective license and scope of practice of school psychology, applied psychology and clinical psychology. Approved continuing education courses for clinical psychologists shall emphasize, but not be limited to, the diagnosis, treatment and care of patients with moderate and severe mental disorders. Any licensed hospital, accredited institution of higher education, or national, state or local health, medical, psychological or mental health association or organization may submit applications to the Board for approval as a provider of continuing education courses satisfying the requirements of the Board's regulations. Approved course providers may be required to register continuing education courses with the Board pursuant to Board regulations. Only courses meeting criteria approved by the Board and offered by a Board-approved provider of continuing education courses may be designated by the Board as qualifying for continuing education course credit.

C. All course providers shall furnish written certification to licensed psychologists attending and completing respective courses, indicating the satisfactory completion of an approved continuing education course. Each course provider shall retain records of all persons attending and those persons satisfactorily completing such continuing education courses for a period of four years following each course. Applicants for renewal or reinstatement of licenses issued pursuant to this article shall retain for a period of four years the written certification issued by any course provider. The Board may require course providers or licensees to submit copies of such records or certification, as it deems necessary to ensure compliance with continuing education requirements.

D. The Board shall have the authority to grant exemptions or waivers or to reduce the number of continuing education hours required in cases of certified illness or undue hardship.

The Board is authorized under § 54.1-103 to specify additional training or conditions for renewal of a license.

§ 54.1-103. Additional training of regulated persons; reciprocity; endorsement. § 54.1-103. Additional training of regulated persons; reciprocity; endorsement.

A. The regulatory boards within the Department of Professional and Occupational Regulation and the Department of Health Professions may promulgate regulations specifying additional training or conditions for individuals seeking certification or licensure, or for the renewal of certificates or licenses.

B. The regulatory boards may enter into agreements with other jurisdictions for the recognition of certificates and licenses issued by other jurisdictions.

- C. *The regulatory boards are authorized to promulgate regulations recognizing licenses or certificates issued by other states, the District of Columbia, or any territory or possession of the United States as full or partial fulfillment of qualifications for licensure or certification in the Commonwealth.*

Section 54.1-2400 establishes duties of health regulatory boards to establish necessary qualifications for registration, certification or licensure, to ensure the competence and integrity of regulated practitioners, to examine applicants, to establish renewal schedules, to administer fees to cover the administrative expenses of the regulatory program, to take disciplinary action for violations of law and regulations and to establish requirements for an inactive licensure status.

§ 54.1-2400. General powers and duties of health regulatory boards.

The general powers and duties of health regulatory boards shall be:

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification and licensure.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
- 8. To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*
- 9. To take appropriate disciplinary action for violations of applicable law and regulations.*
- 10. To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*

11. *To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*
12. *To issue inactive licenses or certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of licenses or certificates.*

Section 54.1-3603 establishes the Board of Psychology and authorizes the Board to regulate the practice of psychology.

§ 54.1-3603. Board of Psychology; membership. --*The Board of Psychology shall regulate the practice of psychology. The membership of the Board shall be representative of the practices of psychology and shall consist of nine members as follows: five persons who are licensed as clinical psychologists, one person licensed as a school psychologist, one person licensed as an applied psychologist and two citizen members. At least one of the seven psychologist members of the Board shall be a member of the faculty at an accredited college or university in this Commonwealth actively engaged in teaching psychology. The terms of the members of the Board shall be four years.*

Section 54.1-3606 mandates licensure for the practice of psychology

§ 54.1-3606 License required.

A. *In order to engage in the practice of applied psychology, school psychology, or clinical psychology, it shall be necessary to hold a license.*

B. *Notwithstanding the provisions of subdivision 4 of § 54.1-3601 or any Board regulation, the Board of Psychology shall license, as school psychologists-limited, persons licensed by the Board of Education with an endorsement in psychology and a master's degree in psychology. The Board of Psychology shall issue licenses to such persons without examination, upon review of credentials and payment of an application fee in accordance with regulations of the Board for school psychologists-limited.*

Persons holding such licenses as school psychologists-limited shall practice solely in public school divisions; holding a license as a school psychologist-limited pursuant to this subsection shall not authorize such persons to practice outside the school setting or in any setting other than the public schools of the Commonwealth, unless such individuals are licensed by the Board of Psychology to offer to the public the services defined in § 54.1-3600.

The Board shall issue persons, holding licenses from the Board of Education with an endorsement in psychology and a license as a school psychologist-limited from the Board of Psychology, a license which notes the limitations on practice set forth in this section.

Persons who hold licenses as psychologists issued by the Board of Psychology without these limitations shall be exempt from the requirements of this section.

The web site address for located the text of these statutes is <http://www.leg1.state.va.us>.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

By enacting the new legislation, the 2000 General Assembly determined that a requirement for continuing education is essential to protect the health, safety and welfare of practitioners. In complying with the mandate to establish continuing education requirements, the Board must determine what types of education would be most meaningful for each of the three licensure categories it governs, while considering the cost and availability of education to licensees in a wide variety of practice situations in both metropolitan and rural areas of the state. The statute requires that the courses be directly related to the license and scope of practice for the three types of psychologists regulated by the Board. It also specifies that the courses for clinical psychologists emphasize the diagnosis, treatment and care of patients with moderate and severe mental disorders.

The statute also authorizes the Board to approve and register providers of continuing education meeting certain criteria. Since the Board has only one administrative assistant dedicated to the licensure, certification and disciplinary processes of the Board, the Board will have to determine the optimal method for ensuring the credibility of providers and the quality of their programs without increasing the cost and administrative burden of operating the licensure program.

The implementation of continuing education requirements creates difficulties for individuals who choose to maintain the license, but are no longer practicing due to retirement, illness, or relocation to another jurisdiction. To accommodate these individuals, the Board proposes developing an inactive licensure status to waive the continuing education requirement for individuals who are not practicing. Issues to be addressed include establishing a reasonable fee that is less than that for active licensure renewal, and a reasonable number of continuing education hours for individuals who wish to reactivate their licenses.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

As alternatives, the Board is reviewing the continuing education requirements of other state psychology boards and other boards regulating health professions in the Commonwealth. The Board is interested in a model that would allow some degree of self-determination by the practitioner along with some required content. The Board has no alternative in the hour requirement, since that is set forth in statute as 14 hours per year.

The Board has identified the need to establish a broad range of approved sources to accommodate practitioners in remote areas. These sources may include academic coursework, in-service training, seminars or workshops sponsored by universities, national professional organizations, and federal, state or local agencies or licensed health facilities and hospitals. The Board plans to develop criteria to provide for approval of programs offered by independent entities or individuals. Because §54.1-3606.1 specifies that the continuing education consist of “courses,” the Board would like to establish criteria for courses which will allow maximum flexibility for licensees. Although the Board recognizes the value of self-directed professional activities such as research and writing professional papers, and would like to encourage these activities, the statute restricts the continuing education to courses offered by Board-approved providers.

For administration of both program/activity approval and the monitoring of licensee compliance, alternatives being considered include the existing auditing process established in the agency’s Enforcement Division used by several other boards, outsourcing the work to a private vendor, forming a special advisory committee of licensees to do the work, and using standing committees of the Board. The Board is mindful of the need to ensure that any vendor approving programs is not itself a provider of continuing education, to avoid any conflict of interest.

Once approval to publish the Notice of Intended Regulatory Action is granted, the Board will consider any comment received during its meetings and public comment periods on any proposed regulations.

Alternatives considered for inactive licensure status will involve the renewal fee and reactivation requirements. The renewal fee will be established at a significantly reduced rate compared with that for active licensure renewal. Alternative fee structures will be developed by the agency’s Finance Office for the Board’s consideration. At the request for reactivation to active status, the licensee may be required to pay the difference in the inactive and active licensure renewal fee for that renewal period. Reactivation to active status may require satisfaction of the continuing education requirements, with a maximum number of hours to be determined by the Board. The Board will consider accepting continuing education received during the inactive period in compliance with national certification standards, or those of other licensing jurisdictions.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed amendments will have no impact on the authority and rights of parents in the education, nurturing or supervision of their children. They may encourage self-pride for licensees who obtain additional training which they may not have otherwise pursued. The additional training may enhance the marital commitment for clients if a practitioner becomes more proficient in treating problems that may have been impacting the client's marriage. Disposable income of practitioners who are required to obtain the training will decrease depending on the type of training selected.